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In re Application of: Oldham et al

Serial No.: 09/492,961
Filed: 01/28/2000

Group Art Unit: 3628

Examiner: Nguyen, Nga B.

For: AUTOMATED METHOD AND SYSTEM FOR CONDUCTING
A CATTLE AUCTION

Commissioner of Patents and Trademarks
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BRIEF OF APPELLANTS

This is an appeal from the final rejection of all claims of the Examiner dated February 9, 2004 rejecting claims 1-43, all of the claims in the case. This Brief is accompanied by the requisite fee of \$165 as set forth in §41.20(b)(2).

REAL PARTY IN INTEREST

This patent application is assigned to AgInfoLink Holdings, Inc. The primary reference cited against this patent ("Cerkendall", U.S. Patent No. 6,342,839) is also assigned to AgInfoLink Holdings, Inc.

RELATED APPEALS AND INTERFERENCES

There are no related U.S. appeals, interferences, or judicial proceedings. An opposition to EP 1,076,485 B1 (the European Patent Office counterpart to the "Cerkendall" patent) is pending in Germany.

STATUS OF CLAIMS

The application was filed on January 29, 2000 as a new utility application with (28) twenty-eight claims, of which (2) two were independent claims. (Claims 1 and 16)

A Preliminary Amendment was filed on August 28, 2001 adding claims 29 through 43, of which (2) two claims were independent claims. (Claims 29 and 38)

All of the claims were rejected in a First Office Action dated April 23, 2003.

In Applicant's response dated October 23, 2003, the preambles to independent claims 29 and 38 were amended to address a Section 112 issue cited by the Examiner.

In the next and Final Office Action, the Examiner rejected all claims on February 9, 2004.

The Examiner in the next Office Action rejected all claims 1-43.

The status of the claims as set out in the Final Office action was and is as follows:

allowed claims: none

claims objected to: none

Claims rejected: 1-43

STATUS OF AMENDMENTS

There are no amendments filed after the final Office Action.

SUMMARY OF THE INVENTION

The applicant's invention is directed to a method and system for conducting a cattle auction is described. One objective of the present invention is to provide a unique value-added beef supply system through a systemized approach to documenting an individual animal's identity, its vaccinations, treatments, and nutrition in order to confirm or certify that cattle have been processed according to established guidelines. This certification is provided by the seller prior to sale of the cattle.

The auction process is improved to allow for premium services to auction buyers so that buyers may have automatic transfer of value-added information from the auction barn to buyers. The information is available to others involved in a particular head of cattle's production/processing cycle such that quality assurance source verification and performance tracking may be implemented. Through the current invention, the history of an animal is available throughout the production cycle, and both source verification and specific performance information are accessible without unnecessary duplication of data.

At the feedyard, the manager can review the history of the animals coming from a special sale and determine the incoming animal protocol based upon real data. This is a tremendous cost saving to the feedyard, as most animals without a verified history are re-

vaccinated. The feedyard has to vaccinate because they do not know if the animals have had received the vaccinations, and they can't afford sick animals. The re-vaccination that takes place is very costly and this system offers a solution. In addition, the manager can see that the animal has been weaned properly based upon the history, he knows that these animals have the best chance of performing well and staying healthy.

The present invention provides an efficient and cost-effective system and method of livestock data collection and data management that will provide quality assurance, HACCP compliance, and source verification data for individual animals throughout the production cycle.

The present invention provides a marketing opportunity for the seller, the auction barn, the buyer and the beef industry as a whole. The seller benefits in that the seller has the opportunity to sell his cattle according to quality assurance guidelines and obtain an economic payoff. Sellers also obtain an economic payoff in that they are able to reach a market which they might not otherwise reach. This is the first time in auction barn history that a system has been put into place to provide performance data on animals back to a seller. Through the current invention, the seller can see if the animals he or she produces perform well. If the seller does not perform well, the seller knows he or she needs to make a change in the genetics of his or her operation. If the animals do perform well, the seller has the ability to market high quality cattle and has the factual data to prove it.

The packing plant also benefits from the current invention. The data collection can extend to the plant level, although not every packing plant in the United States is equipped with a data collection system or strategy, some do have that capability. If carcass data is collected and sent through the system of the present invention, that information will be routed back to the feedlot and the auction barn. This gives the seller and the feedyard the ultimate "report card" giving them a record of how well the animal graded and yielded at the packing plant. At this time, downstream data is not guaranteed. However, the number of packing plants, feedyards, and other buyers using the software which is a part of the present invention, particularly the BEEFLINK™ Data Collection Software, is growing.

The auction barn benefits in that it receives higher commissions. The auction barn is generally paid a one percent (1%) to three percent (3%) commission on the value of the animals that are sold at the barn. If the sale involves higher quality process-verified cattle that are worth more, the barn's commission will be higher. This type of sale is very unique and provides a customer service that cannot be obtained at any other sale barn.

Another objective of the present invention is to economically benefit the buyer. Statistics show that cattle that have gone through the process-protocol involved with this sale will perform better. They have a greater chance of remaining healthy and eating grass and grain on their own. If animals become ill, the buyer spends a significant amount of money on pharmaceuticals and labor to bring the animal back to health. Therefore, process-verified animals have a greater economic value. The buyer economically benefits as well as saves time in that the methodology of the present invention allows the buyer to purchase large drafts of cattle at once. Cattle are sorted according to size, type and breed in the present invention and may be auctioned in groups as well as individually.

The beef industry also benefits from the present invention. The beef industry is fighting an uphill media battle waged by anti-red meat advocates. The consumer is bombarded with messages about the saturated fat, cholesterol, and food safety issues associated with beef. Many in the beef industry are collectively trying to improve the quality and consistency in the end product. One of the trends to accomplish this goal is the formation of alliances to provide branded beef products to the retail market. The consumer would be provided a special brand of beef, such as "Certified Angus Beef™" rather than a generic product. In order to put a name on a product, the production chain has to be documented and verified such that a consistent and high quality product is produced. The method of the present invention is the first step in documenting the production cycle of animals that originate in a herd of one hundred (100) head or less. It has been easier to document large herds because cattle ranching is their primary focus and the economic drivers in a large operation naturally occur. The ability to tap small producers that account for 85% of the cattle produced in the United States is unique.

Another objective of the present invention is to provide an automated auction barn system. Animal data is collected using a radio frequency identification reader, instead of by key entry. Moreover, electronic databases are maintained in connection with the system which prepare checks for the sellers and invoices for the buyer, thereby reducing the amount of labor required to conduct an auction.

GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

1. The Examiner has rejected claims 1-28 under 35 U.S.C. §103 as being unpatentable over Curkendall et al (“Curkendall”), U.S. Patent No. 6,342,839, in view of Cobb et al (“Cobb”), U.S. Patent No. 6,183,258, and further in view of Shkedy, U.S. Patent No. 6,260,024.
2. The Examiner has rejected claims 1-28 under 35 U.S.C. §103 as being unpatentable over Curkendall in view of Cobb.

ARGUMENT

AgInfoLink Holdings, Inc. is the assignee of both the current patent application and the Curkendall patent. The current invention describes patentable extensions and uses of the Curkendall subject matter.

The following arguments relate to both 35 U.S.C. §103 rejections.

The Cobb patent describes a pedigreed dog registration form, and the Cobb patent is not properly cited against livestock auctions or the pre-conditioning certification of the present invention. Shkedy does not discuss or relate in any way to livestock auctions, and is not properly cited against the present invention.

The current invention’s combination of auction sale, pre-certification guidelines, individual animal identification, certification form, pre-certification data collection, and electronic databases is not obvious in view of the prior art cited by the examiner.

The Curkendall Patent

The Curkendall patent does describe data livestock collection systems and methods which can be used to implement a portion of the methods and systems described in the current application.

Curkendall does not disclose an automated method for conducting a cattle auction.

Curkendall does not disclose providing a seller with guidelines for processing an animal prior to an auction.

Curkendall does not disclose providing the seller with a sales certification form prior to the auction.

Curkendall does not disclose receiving an animal into auction barn facility and providing seller with a receipt for said animal.

Curkendall does not disclose recording buyer data preparing a check for the seller or preparing an invoice for the buyer.

As noted by the examiner, Curkendall does reference events related to recording an animal's health (11:16-17), weaning (12:30), and vaccination (12:66-67), however, Curkendall does not teach recording these events as part of a certification process for a livestock auction.

Curkendall does not disclose processing a complete and signed certification form which certifies that said at least one animal was processed in accordance with said required processing guidelines.

The current application represents a non-obvious extension of livestock data collection and individual animal identification to specifically support the auction sale of "pre-certified" cattle. In the current application, this "certification" that cattle have been processed according to specified pre-conditioning guidelines is supported in two ways. First, the seller signs a certification form that the guidelines have been followed. Second, the actual data, such as dates of vaccinations, is provided in a manner that can be transferred to an electronic database in a manner that the data can be accessed from the animal identification code.

The Cobb Patent

Cobb teaches a breed registration form for dogs, where the seller signs a registration form. This registration form is specifically limited to information about the genealogy of the dog; the date of birth of the dog; a name of the dog; an optional microchip number for the dog; and the identity of the seller and buyer. There is no

information provided about the health of the dog, such as a vaccination history. There is no information provided about the background conditioning of the dog prior to sale. There is no suggestion in Cobb that the animal has been processed according to specified auction guidelines before the sale, and there is no indication that the dog is worth more to a buyer because of the pre-sale conditioning guidelines. Cobb does not teach livestock auctions. The seller is not signing the registration form to certify that pre-sale processing guidelines have been followed. Data is not provided to support required pre-sale processing guidelines. Cobb's registration form is not a certification form as described in the current application. Cobb simply does not address auction sales, livestock sales, or the special sale of pre-certified livestock according to specific pre-conditioning criteria.

This certification is important, because, unlike dogs, the cattle are food animals which will be further processed by the buyers (and subsequent buyers) and will eventually be consumed. The certification process helps ensure animal health, helps to avoid unnecessary treatments such as excess antibiotics, and provides information that may be used in subsequent investigation or analysis. Whereas Cobb's dogs have a value simply because of their genealogy, the livestock in the present invention have value because of a specific pre-sale conditioning protocol that is documented and certified according to the present invention.

Cobb's registration form presumably supports a higher value for a dog because of proof of its genealogy or breed. One skilled in the art could presumably extend Cobb's teachings to perform a similar breed registration or proof of genealogy in cattle. However, proof of breed is not the essence of the current invention. In the current invention, the improved value to the seller and buyer is due to the certification (and supporting data) that pre-sale processing guidelines have been followed.

The references are not properly combined

The references of Cobb and Currkendall and Shkedy and Currkendall are not reasonably combined. Currkendall relates to a method and apparatus for livestock data collection and management. Cobb relates to a method for encouraging purchasers of pets or other types of animals to register animals with a genealogical or breed registry. Shkedy describes systems and methods for providing a global bi-lateral buyer-driven

system for creating binding contracts. Neither Cobb nor Shkedy relate to livestock auctions.

Cobb and Shkedy teach away from the current invention

Even if Cobb were reasonably combined with Cerkendall, Cobb teaches away from the claims of the current invention in the manner and timing of the registration; in the assignment of a registration number; and in the type of information required for registration. Cobb teaches collecting sire and dam information [9:39], but does not teach collecting other background or processing information for an animal prior to sale. Cobb describes “a method for encouraging purchasers of pets to register the animals “ (Abstract) and “providing a purchaser, at the time of purchase, an application form for registration of the animal (Abstract) ...” “Upon receipt of the application, the registry assigns a registration number to the animal ...” [Abstract] Cobb does not present “guidelines for processing an animal”, and the registration appears to be based entirely on breed. In the present invention, the seller of the cattle has effectively identified and registered the animal prior to the sale. In the present invention, a benefit to the buyer is the certification by the seller that the guidelines for processing an animal have been fulfilled. Cobb teaches collecting sire and dam information [9:39], but does not teach collecting other background or processing information for an animal prior to sale.

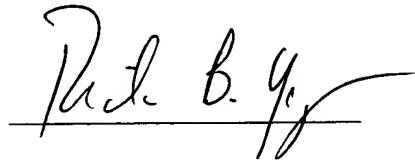
Shkedy teaches away from the claims of the current invention. The patent discloses “a method for using a computer acting as an intermediary to facilitate a transaction between a plurality of buyers and at least one seller”. [3:39-41] A buyer’s conditional purchase offer is “combined into a pooled purchase order with other buyers.” [3:49-50]

The Examiner’s rejections are based on hindsight

It is not obvious to one skilled in the art to combine Cobb’s dog breed registration forms and the Shkedy auction settlement with the Cerkendall patent to render the current invention obvious. The Examiner relies on hindsight to form unreasonable combinations of patents from unrelated arts to form the claims rejection.

Dated: October 6, 2004

Respectfully submitted,



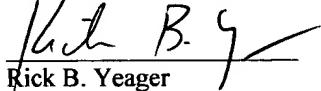
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Rick B. Yeager

CLAIMS APPENDIX

There were no claims amended after the final office action rejection. The following are the claims on appeal:

1. (original) An automated method for conducting a cattle auction, comprising:
 - providing a seller with guidelines for processing an animal prior to an auction, said seller processing said animal according to said guidelines, said guidelines including at least one required vaccination, at least one required medication, at least one required treatment, at least one required health record, and required electronic identification for the animal;
 - providing the seller with an electronic identification unit for said animal prior to the auction, said seller identifying said animal with the electronic identification unit, said electronic identification unit containing a unique animal code for the animal;
 - providing the seller with a visual identification tag for said animal prior to the auction, said seller identifying the animal with the visual identification tag, said visual identification tag containing a unique animal code for the animal;
 - providing the seller with a data card for said animal prior to the auction, said seller completing the data card for each animal, said data card including a unique animal code corresponding to the unique animal code contained in the electronic identification unit for the animal and further including fields for the seller to provide animal data including information on the animal's physical characteristics, administrative information on the animal, and information on medications, vaccinations and treatments given to the animal;
 - providing the seller with a sales certification form prior to the auction, said seller completing the sales certification form for each animal, said sales certification form having fields for the seller to provide background information, identifying information on the animal, information on vaccinations given to the animal, and seller's signature, said seller thereby certifying that the animal was processed according to vaccination processing guidelines;
 - obtaining completed data card from the seller;
 - recording animal data and corresponding unique animal code into first electronic database maintained on host computer for the auction barn facility, said host computer running a first software application;
 - obtaining completed sales certification form from the seller;
 - verifying that animal has electronic identification unit containing unique animal code;
 - receiving animal into auction barn facility;
 - providing seller with a receipt for said animal;
 - assigning unique group code to animal by sorting animal into group with other animals having at least one common characteristic, by means of a unique group code;
 - recording animal's unique animal code into second electronic database on host computer running a second software application;

recording animal's unique group code corresponding to the animal's unique animal code into second electronic database on host computer running a second software application;

weighing the animal;

recording said animal's weight corresponding the unique animal code into second electronic database on host computer running a second software application;

auctioning an animal or group of animals;

re-sorting the animals a second time to confirm that animals are in appropriate grouping;

recording buyer data, including buyer name and information sufficient to ascertain amount due from buyer, into second electronic database on host computer for the auction barn facility, said host computer running a second software application;

preparing a check for the seller by means of the second software application; and

preparing an invoice for the buyer by means of the second software application.

2. (original) The method of Claim 1 wherein recording the animal's unique animal code comprises the steps of:

reading the animal's unique animal code with a radio frequency identification reader unit which queries a radio frequency identification transponder such that the transponder provides a unique animal code;

uploading the unique animal code from the reader to the host computer by means of wireless radio frequency connection;

wherein said electronic identification unit is a radio frequency identification transponder.

3. (original) The method of Claim 2 wherein
the electronic identification unit is located on the animal's ear.

4. (original) The method of Claim 3 wherein recording the animal's unique group code comprises the steps of:

reading the animal's unique group code with a radio frequency identification reader unit which queries a radio frequency identification transponder having a unique group code, such that the radio frequency identification transponder having the unique group code provides said unique group code when queried by the radio frequency identification reader unit;

uploading the unique group code from the reader to the host computer by means of a wireless radio frequency connection.

5. (original) The method of Claim 4 further comprising the steps of:
exporting buyer data from the second electronic database maintained on the host computer using the second software application into an information file;
importing buyer data from the information file into the first electronic database maintained on the host computer using the first software application; and
maintaining said first electronic database on at least one computer such that animal data can be accessed according to the animal's unique animal code.

6. (original) The method of Claim 4 further comprising the steps of:
exporting buyer data from the second electronic database maintained on the host computer using the second software application into an information file;
importing buyer data from the information file into the first electronic database maintained on the host computer using the first software application;
maintaining at least one additional electronic database, on more than one computer running said first software application, such that animal data can be accessed according to the animal's unique animal code, said additional database or databases containing animal data; and
communicating between the first electronic database and at least one additional electronic database on each computer such that animal data is shared between databases without the necessity of reentering data.
7. (original) The method of Claim 6 wherein
the guidelines include at least one requirement for an effective amount of a vaccine selected from the group consisting of a four-way virus vaccine for IBR, BVD, P13 and BRSV (MLV), a Pasteurella vaccine, and a combination of a clostridial seven-way vaccine and *Hemophilus somnus* vaccine;
wherein if said effective amount of a vaccine is a four-way virus vaccine, then the manufacturer and corresponding trade name of the four-way virus vaccine are selected from the group consisting of BAYER BRSV VAC 4 vaccine, FORT DODGE PYRIMID 4 vaccine, and PFIZER BOVISHIELD 4 vaccine, and said four way virus vaccine is administered first at weaning and again fourteen to twenty-one days later;
wherein if said effective amount of a vaccine is a Pasteurella vaccine, then said effective amount of a Pasteurella vaccine is first administered at weaning and then fourteen to twenty-one days after the first Pasteurella vaccination, and wherein the manufacturer and corresponding trade name of said Pasteurella vaccine is selected from the group consisting of BAYER ONCE PMH vaccine, FORT DODGE PRESRESPONSE vaccine and PFIZER ONE-SHOT vaccine;
wherein if said effective amount of a vaccine is a combination of a clostridial seven-way vaccine and *hemophilus somnus* vaccine, and if a blackleg is given at branding, then the clostridial seven way vaccination and *hemophilus somnus* vaccination is administered at weaning, and the manufacturer and corresponding trade name of the clostridial seven way vaccine and *hemophilus somnus* vaccine is selected from the group consisting of BAYER VISION 7 SOMNUS vaccine and PFIZER FORTRESS 7 vaccine;
wherein if said effective amount of a vaccine is a combination of a clostridial seven-way vaccine and *hemophilus somnus* vaccine, and no blackleg is given at branding, then the clostridial seven way vaccination and *hemophilus somnus* vaccination is first administered at weaning and then fourteen to twenty-one days after the first clostridial seven way vaccination and *hemophilus somnus* vaccination, and the manufacturer and corresponding trade name of the clostridial seven way vaccine and *hemophilus somnus* vaccine are selected from the group

consisting of BAYER VISION 7 SOMNUS vaccine and PFIZER FORTRESS 7 vaccine.

8. (original) The method of Claim 7 wherein
the guidelines include a required deworm medication once at weaning and the manufacturer and corresponding trade name of deworm medication are selected from the group consisting of MERIAL IVOMEC, PFIZER DECTOMAX , and FORT DODGE CYDECTIN.
9. (original) The method of Claim 8 wherein
the guidelines include a required weaning date for the animal and said required weaning date is at least forty five days prior to the auction.
10. (original) The method of Claim 9 wherein
the guidelines include at least one requirement for the location of administration of each vaccination, said requirement being selected from the group consisting of using the neck area for intramuscular injection, injecting subcutaneously if labeled on the product, and following label directions.
11. (original) The method of Claim 10 wherein
the guidelines include at least one recommendation for nutrition for an animal, said recommendation for nutrition being selected from the group consisting of:
 - high quality, high energy rations for the first three to five days subsequent to weaning;
 - hand-feeding the animal on grass, fields or improved pastures in sufficient quantities to maintain the health and growth of the animal;
 - giving an animal its free choice of salt and minerals at all times; and
 - giving an animal an adequate and clean water supply at all times.
12. (original) The method of Claim 11 wherein the fields for the seller's background information, identifying information on the animal, information on vaccinations given to the animal, and seller's signature, on the sales certification form include:
 - the seller's name;
 - the ranch name;
 - seller's address;
 - seller's phone number;
 - seller's facsimile number;
 - a contact person for the seller;
 - the sire breed for the animal;
 - the dam breed for the animal;
 - the animal's vaccination background including the name of each vaccination, the lot or serial number for each vaccination, the date of each vaccination, the location of administration of each vaccination;
 - seller's certification to accuracy of information contained on sales certification form;

seller's signature;
date of certification for said sales certification form; and
indication of whether purchase receipts are attached to said sales certification form.

13. (original) The method of Claim 12 wherein
said data card is completed using abbreviations contained on at least one code card; and
wherein said data card has fields for animal data including information on the animal's physical characteristics, administrative information on the animal, and information on medications, vaccinations and treatments given to the animal, including:
- the date said data card is being completed;
 - the ranch on which the animal is located;
 - whether group information is being given on the animal;
 - the visual identification tag number for the animal;
 - the animal's sex as heifer, cow, steer or bull;
 - brand, method and dosage of medications and vaccinations for
 - Brucellosis,
 - Clostridial,
 - IBR,
 - PI-3,
 - BVD,
 - BRSV,
 - Haemophilus somnus bacterin,
 - Pasteurella,
 - Leptospirosis,
 - Deworm,
 - Grub/Lice, and
 - Other.
 - brand of any implant;
 - treatments whereby the animal was branded, castrated, dehorned, or weaned;
 - an animal's frame rated as 1, 2, 3, 4, 5, 6, or 7;
 - an animal's condition rated as 1, 2, 3, 4, 5, 6, 7, 8, or 9;
 - an animal's breed code as such code is defined by a code card;
 - an animal's sire code as such code is defined by a code card;
 - an animal's dam code as such code is defined by a code card;
 - an animal's location;
 - an animal's birth date;
 - an animal's color as black, red, white, brindle, grey, black with white face or red with white face;
 - pregnancy at 1-2 months, 3-4 months, 4-5 months, 6-7 months, and 8-9 months;
 - whether a broken needle is observed on the animal;
 - whether a broken needle has not been observed on the animal; and

any incident other than a broken needle.

14. (original) The method of Claim 13 wherein
a common characteristic of the group of animals to which said animal is assigned
is selected from the group consisting of size, frame, and breed.
15. (original) The method of Claim 14 wherein
information sufficient to ascertain purchase price comprises price per pound for
animal or group of animals purchased and weight in pounds of animal or group of
animals purchased.
16. (original) An automated system for conducting a cattle auction, comprising:
guidelines for processing an animal prior to an auction, said guidelines including
at least one required vaccination, at least one required medication, at least one
required treatment, at least one required health record, and required electronic
identification for the animal;
sales certification form for certifying that the animal was processed according to
vaccination processing guidelines prior to the auction, said sales certification form
having fields for the seller to provide background information, identifying
information on the animal, information on vaccinations given to the animal, and
seller's signature;
electronic identification unit for identifying the animal, said electronic
identification unit containing a unique animal code for the animal;
visual identification tag for identifying the animal, said visual identification tag
containing a unique animal code for the animal;
a data card for providing animal data prior to an auction, said data card including
a unique animal code corresponding to the unique animal code contained in the
electronic identification unit for the animal and further including fields for the
seller to provide animal data including information on the animal's physical
characteristics, administrative information on the animal, and information on
medications, vaccinations and treatments given to the animal;
auction barn facility for receiving and auctioning animal individually or as part of
a group;
receipt for acknowledging that animal was received into auction barn facility;
scale for weighing the animal;
unique group code for assigning animal to a group, the animals in said group
having at least one common characteristic;
a first electronic database for storing animal data, including animal data from data
card, said first electronic database maintained on a host computer for the auction
barn facility, said host computer running a first software application;
a second electronic database for storing animal data including buyer data for
purchaser of animal sold including buyer name and information sufficient to
ascertain purchase price for animal or group of animals;
wherein said second electronic database is maintained on a host computer for the
auction barn facility;
wherein said host computer runs a second software application;

wherein said second software application prepares a buyer invoice for billing the buyer for animal or group of animals purchased; and
wherein said second software application further prepares a check for the seller in payment for animal or group of animals sold to a buyer at auction.

17. (original) The system of Claim 16 further comprising:
a radio frequency identification reader unit for reading the unique animal code and unique group code;
a wireless radio frequency connection for uploading unique animal code and unique group code from the reader to the host computer;
wherein the electronic identification unit is a radio frequency identification transponder; and
wherein the unique group code is contained in a radio frequency identification transponder.
18. (original) The system of Claim 17 further comprising:
information file for receiving buyer data from the second electronic database maintained on the host computer using the second software application and sending buyer to first electronic database maintained on the host computer using the first software application; and
at least one computer in addition to the host computer for maintaining said first electronic database such that animal data can be accessed according to the animal's unique animal code.
19. (original) The system of Claim 17 further comprising:
information file for receiving buyer data from the second electronic database maintained on the host computer using the second software application and sending buyer to first electronic database maintained on the host computer using the first software application; and
at least one additional electronic database, said additional electronic database or databases being maintained on more than one computer running said first software application, such that animal data can be accessed according to the animal's unique animal code, said additional database or databases containing animal data; and
communication means for communicating between the first electronic database and the additional electronic database or databases on each computer such that animal data is shared between databases without the necessity of reentering data.
20. (original) The method of Claim 19 wherein
the guidelines include at least one requirement for an effective amount of a vaccine selected from the group consisting of a four-way virus vaccine for IBR, BVD, P13 and BRSV (MLV), a Pasteurella vaccine, and a combination of a clostridial seven-way vaccine and Hemophilus somnus vaccine;
wherein if said effective amount of a vaccine is a four-way virus vaccine, then the manufacturer and corresponding trade name of the four-way virus vaccine are selected from the group consisting of BAYER BRSV VAC 4 vaccine, FORT

DODGE PYRIMID 4 vaccine, and PFIZER BOVISHIELD 4 vaccine, and said four way virus vaccine is administered first at weaning and again fourteen to twenty-one days later;

wherein if said effective amount of a vaccine is a Pasteurella vaccine, then said effective amount of a Pasteurella vaccine is first administered at weaning and then fourteen to twenty-one days after the first Pasteurella vaccination, and wherein the manufacturer and corresponding trade name of said Pasteurella vaccine is selected from the group consisting of BAYER ONCE PMH vaccine, FORT DODGE PRESONSE vaccine and PFIZER ONE-SHOT vaccine;

wherein if said effective amount of a vaccine is a combination of a clostridial seven-way vaccine and hemophilus somnus vaccine, and if a blackleg is given at branding, then the clostridial seven way vaccination and hemophilus somnus vaccination is administered at weaning, and the manufacturer and corresponding trade name of the clostridial seven way vaccine and hemophilus somnus vaccine is selected from the group consisting of BAYER VISION 7 SOMNUS vaccine and PFIZER FORTRESS 7 vaccine;

wherein if said effective amount of a vaccine is a combination of a clostridial seven-way vaccine and hemophilus somnus vaccine, and no blackleg is given at branding, then the clostridial seven way vaccination and hemophilus somnus vaccination is first administered at weaning and then fourteen to twenty-one days after the first clostridial seven way vaccination and hemophilus somnus vaccination, and the manufacturer and corresponding trade name of the clostridial seven way vaccine and hemophilus somnus vaccine are selected from the group consisting of BAYER VISION 7 SOMNUS vaccine and PFIZER FORTRESS 7 vaccine.

21. (original) The system of Claim 20 wherein
the guidelines include a required weaning date for the animal and said required weaning date is at least forty five days prior to the auction.
22. (original) The method of Claim 21 wherein
the guidelines include a required deworm medication once at weaning and the manufacturer and corresponding trade name of deworm medication are selected from the group consisting of MERIAL IVOMEC, PFIZER DECTOMAX , and FORT DODGE CYDECTIN.
23. (original) The method of Claim 22 wherein
the guidelines include at least one requirement for the location of administration of each vaccination, said requirement being selected from the group consisting of using the neck area for intramuscular injection, injecting subcutaneously if labeled on the product, and following label directions.
24. (original) The method of Claim 23 wherein
the guidelines include at least one recommendation for nutrition for an animal, said recommendation for nutrition being selected from the group consisting of:

high quality, high energy rations for the first three to five days subsequent to weaning;

hand-feeding the animal on grass, fields or improved pastures in sufficient quantities to maintain the health and growth of the animal;

giving an animal its free choice of salt and minerals at all times; and

giving an animal an adequate and clean water supply at all times.

25. (original) The method of Claim 24 wherein the fields for the seller's background information, identifying information on the animal, information on vaccinations given to the animal, and seller's signature, on the sales certification form include:

the seller's name;

the ranch name;

seller's address;

seller's phone number;

seller's facsimile number;

a contact person for the seller;

the sire breed for the animal;

the dam breed for the animal;

the animal's vaccination background including the name of each vaccination, the lot or serial number for each vaccination, the date of each vaccination, the location of administration of each vaccination;

seller's certification to accuracy of information contained on sales certification form;

seller's signature;

date of certification for said sales certification form;

indication of whether purchase receipts are attached to said sales certification form.

26. (original) The method of Claim 25 wherein
said data card is completed using abbreviated codes contained on at least one code
card; and
wherein said data card has fields for animal data including information on the
animal's physical characteristics, administrative information on the animal, and
information on medications, vaccinations and treatments given to the animal,
including:
the date said data card is being completed;
the ranch on which the animal is located;
whether group information is being given on the animal;
the visual identification tag number for the animal;
the animal's sex as heifer, cow, steer or bull;
brand, method and dosage of medications and vaccinations for
Brucellosis,
Clostroidal,
IBR,
PI-3,
BVD,
BRSV,
Haemophilus somnus bacterin,
Pasteurella,
Leptospirosis,
Deworm,
Grub/Lice, and
Other.
brand of any implant;
treatments whereby the animal was branded, castrated, dehorned,
or weaned;
an animal's frame rated as 1, 2, 3, 4, 5, 6, or 7;
an animal's condition rated as 1, 2, 3, 4, 5, 6, 7, 8, or 9;
an animal's breed code as such code is defined by a code card;
an animal's sire code as such code is defined by a code card;
an animal's dam code as such code is defined by a code card;
an animal's location;
an animal's birth date;
an animal's color as black, red, white, brindle, grey, black with
white face or red with white face;
pregnancy at 1-2 months, 3-4 months, 4-5 months, 6-7 months, and
8-9 months;
whether a broken needle is observed on the animal;
whether a broken needle has not been observed on the animal; and
any incident other than a broken needle.

27. (original) The method of Claim 26 wherein

a common characteristic of the group of animals to which said animal is assigned is selected from the group consisting of size, frame and breed.

28. (original) The method of Claim 27 wherein information sufficient to ascertain purchase price comprises price per pound for animal or group of animals purchased and weight in pounds of animal or group of animals purchased.
29. (previously amended) A method for certifying cattle for an auction between a seller and a buyer comprising:

providing said seller with a plurality of required guidelines for processing at least one animal prior to said auction, said required guidelines comprising: at least one required vaccination, at least one required treatment to said animal, at least one required health record, and a required weaning date for said at least one animal that is at least forty five days prior to said auction;
utilizing, by said seller, an electronic identification unit on each of said at least one animal, each of said identification units comprising a unique animal code for each of said at least one animal;
collecting information on each of said at least one animal comprising physical characteristics of said at least one animal;
processing a complete and signed certification form which certifies that said at least one animal was processed in accordance with said required processing guidelines; and
providing said buyer with at least a portion of said collected information and information regarding said certification.
30. (previously added) The method of claim 29, wherein said guidelines further comprise: a required vaccination regimen.
31. (previously added) The method of claim 29, wherein said guidelines further comprise: a required treatment regimen.
32. (previously added) The method of claim 31, wherein said required treatment regimen comprises:

dehorning said at least one animal.
33. (previously added) The method of claim 31, wherein said required treatment regimen comprises:

castrating said at least one animal.
34. (previously added) The method of claim 31, wherein said required treatment regimen comprises:

performing injections in said at least one animal in a region of the neck of said at least one animal.

35. (previously added) The method of claim 29, wherein said physical characteristics of collected information comprises:
weight information.
36. (previously added) The method of claim 29, wherein said physical characteristics of collected information comprises:
the sex of said at least one animal.
37. (previously added) The method of claim 29, wherein said collected information is collected and stored based, at least in part, on said unique animal code.
38. (previously amended) A method for certifying cattle for an automated cattle auction comprising:
providing a seller with required processing guidelines for processing at least one animal prior to said auction, said guidelines comprising: at least one required vaccination, at least one required medication, at least one required treatment to said at least one animal, at least one required health record and a required weaning date for said at least one animal that is at least forty five days prior to said auction;
utilizing an electronic identification unit comprising a unique animal code for each of said at least one animal;
collecting individual animal data comprising physical characteristic information for each of said at least one animal during processing of said at least one animal;
submitting a signed certification form which certifies that said at least one animal was processed in accordance with said required processing guidelines;
automatically collecting information comprising: animal weight and said unique animal code, for each of said at least one animal; and
automatically updating a database record with said collected information corresponding to said at least one animal with said collected information prior to said auction.
39. (previously added) The method of claim 38, wherein said required processing guidelines further comprise:
a required vaccination regimen.
40. (previously added) The method of claim 38, wherein said required processing guidelines further comprise:
a required treatment regimen.
41. (previously added) The method of claim 40, wherein said required treatment regimen comprises:
dehorning said at least one animal.

42. (previously added) The method of claim 40, wherein said required treatment regimen comprises:
castrating said at least one animal.
43. (previously added) The method of claim 40, wherein said required treatment regimen comprises:
performing injections in said at least one animal in a region of the neck of said at least one animal.



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FAX (512) 918-1238

October 5, 2004

Cecil Scott
12397 FM 1511
Buffalo, TX 75831

Re: Civil Action A04CA521 LY Lukn and Hueske vs Scott

Dear Cecil,

Please call me so that we can set up a time to review this case.

You have several options on how to proceed.

- The most aggressive approach is to attempt to invalidate the Luhn patent by inequitable conduct. This approach will probably require several depositions and other expenses. If you win on inequitable conduct, then you would normally recover your attorney fees and costs. This defense is similar to fraud that Mr. Luhn and Mr. Hueske did not invent their device, that they knew of similar prior art devices, and that they deliberately deceived the Patent Office by not revealing the prior device(s).
- A second approach is to file a Motion for Summary Judgment that your device does not infringe the '354 patent because (a) it is a wheel rake, and (b) it does not have a replacement rear wheel assembly.

This might be the fastest and easiest way to end the lawsuit, but you may not be able to recover your fees and expenses [we can file a request for sanctions to attempt to recover the fees, on the basis that the plaintiffs and their attorney failed to properly investigate before filing suit.]

We need to talk about these and other options in more detail.

Sincerely,



Rick Yeager



Rick B. Yeager
Attorney at Law
10805 Mellow Lane
Austin, TX 78759

Invoice submitted to:

Cecil Scott

October 04, 2004

In Reference To: rake patent

Invoice # 11116

Professional Services

	<u>Hours</u>
8/17/2004 call from Cecil on patent suit, research patents,	1.20
8/18/2004 evaluate defense strategies	0.40
8/19/2004 review patent, research sanctions; draft letters	2.50
8/21/2004 Draft letter	0.90
8/23/2004 review draft letters and send to Cecil	0.70
9/3/2004 review complaint	0.50
9/6/2004 call to Cecil, review patent and complaint, prepare draft answer ; review Texas Federal cases by plaintiffs	1.80

	<u>Hours</u>
9/7/2004 draft answer to petition; call to Houston atty on southern District cases; file Answer	3.00
9/9/2004 call to Houston attorney on related cases	0.30
9/29/2004 review local rules on scheduling order- due Nov 7th	0.30
10/2/2004 review Rule 11 sanction patent cases	0.30
10/4/2004 letter to attorney on scheduling order, letter to Cecil Scott on approaches	0.50
	<u>Amount</u>
For professional services rendered	12.40 \$2,482.50
Additional Charges:	
8/25/2004 mail	1.50
mail	0.37
9/07/2004 legal research	75.00
Federal Court Docket Records	3.00
Total costs	\$79.87
Total amount of this bill	\$2,562.37